

Court No. - 10

Case :- WRIT - C No. - 26364 of 2023

Petitioner :- Committee Of Management Uchchattar Madhyamik Vidyalay
And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Anand Kumar Pandey, Prabhakar Awasthi

Counsel for Respondent :- C.S.C., J.P.N. Singh

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Prabhakar Awasthi along with Sri Anand Kumar Pandey, learned counsel for the petitioners, learned Standing Counsel for the respondents no.1, 2, 3 and 4 and Sri J.P.N. Singh, learned counsel for the respondent no.5.

2. At the very outset, multi fold objections have been raised by Sri J.P.N. Singh to the following effect:-

(i) The writ petition has been filed by Lallan Tiwari claiming himself to be the President of the Committee of Management, the Committee being also one of the petitioners although nothing has been stated in the petition as to how and when Lallan Tiwari became President of the Committee;

(ii) The order impugned dated 03.02.2023 is merely a consequential order and the main order dated 13.12.2022 passed by the Joint Director of Education having not been challenged, writ petition is not maintainable;

(iii) The petitioner has no locus in the matter as he was never party to any litigation nor even before the authorities; and

(iv) The main order dated 13.12.2022 refers to Two Members Inquiry Report which has not been annexed and which reads in favour of the respondent no.5 and is dated 31.10.2022.

3. Sri Awasthi submits that the inquiry report dated 31.10.2022 was never made available to the petitioner.

4. Though, I prima facie find that the petitioners have utterly failed to establish their standing and locus in the present dispute, in the interest of justice, I direct the learned counsel for the respondent no.5 to serve a copy of the inquiry report dated 31.10.2022 upon Sri Awasthi. The said copy has been served upon Sri Awasthi in

Court today itself.

5. In the entire backgrounds of facts, Sri Awasthi seeks withdrawal of the writ petition to file a fresh petition.

6. Once I am not satisfied about the locus of the petitioners and simultaneously I also cannot restrain the party from withdrawing the writ petition, on the question of liberty granted, all the rights of respondent no.5 are left open.

7. The writ petition is **dismissed as withdrawn** with liberty to the petitioner to file another writ petition after due service of its copy upon Sri J.P.N. Singh, learned counsel for the respondent no.5

8. It is made clear that this Court has not accepted the locus of the petitioner at this stage and whenever the second petition is filed, the arguments on locus shall remain opened.

Order Date :- 27.10.2023

AKShukla/-